

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:) BK. NO: 16-41222-BTR
)
MAIN STREET SCHOOLS, LLC)
D E B T O R.)

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TRANSCRIPT OF PROCEEDINGS

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BE IT REMEMBERED, that on the 6th day of July, 2016,
before the HONORABLE BRENDA T. RHOADES, United States
Bankruptcy Judge at Plano, Texas, the above styled and
numbered cause came on for hearing, and the following
constitutes the transcript of such proceedings as hereinafter
set forth:

P R O C E E D I N G S

COURTROOM DEPUTY: The next matter is Main Street Schools, LLC. Case 16-41222. Motion for authority to use cash collateral.

THE COURT: Okay. Appearances.

MR. MARTIN: Derrick Martin on behalf of Celtic Bank.

MR. LIEPINS: Your Honor, Eric Liepins for the debtor.

THE COURT: Okay.

MR. LIEPINS: Your Honor, we're here today on the debtor's interim order -- interim motion to use cash collateral. The debtor operates a montessori school out in Flower Mound. My understanding from Mr. Martin that the Bank does not oppose the debtor's interim use of cash collateral. I do have Mr. Vesterman here to testify regarding the needs for these funds and the status of the school. And, additionally, we have spoken to your Clerk before the hearing. And if the Court were to grant cash collateral, we would be asking for the July 26th date for a final.

THE COURT: Okay. You may proceed with a proffer, unless there's an objection.

MR. MARTIN: No objection.

THE COURT: All right. You may proceed.

MR. LIEPINS: May I approach, Your Honor?

1 THE COURT: You may.

2 MR. LIEPINS: Your Honor, if called to
3 testify, he'd testify his name is William Vesterman. That he
4 is the owner of the debtor. And that Main Street Schools
5 operates a montessori school in Flower Mound, Texas. And
6 he's had -- has operated that school since 2006.

7 He would testify the school suffered a loss of
8 employment as a result of a loss of its director last year.
9 And that the debtor has now replaced that director with a
10 certified director. Currently the debtor has 37 students,
11 would be the testimony. And that the debtor has prepared a
12 budget with respect to the cash needs of the company going
13 forward.

14 He would testify that what is marked as Exhibit A is
15 the budget that he prepared regarding the cash needs of the
16 company going forward. And that he has reviewed the
17 historical records of the company to complete this budget.
18 He would testify that he believes these are the actual and
19 necessary needs of the school to remain in business for the
20 next month.

21 The debtor would testify that it obtains monies through
22 tuition of its students. And that without the use of the
23 ability to use the tuition it receives, the debtor would not
24 be able to stay in operation.

25 The debtor would testify that during the summer months,

1 it has lower enrollment than it will once school starts. He
2 would testify that the debtor currently owes money to Celtic
3 Bank. He understands, furthermore, that Celtic Bank is
4 claiming a lien on the debtor's incoming tuition payments.

5 He would testify that once the summer is over, starting
6 on the 22nd of August, the school's enrollment will increase
7 to approximately 55 students. And that the students will --
8 that the numbers will increase between July and August.

9 He would testify that this will cause an increase in
10 the debtor's income during this time period. He would
11 further testify that he is willing to provide Celtic with a
12 lien on any funds generated from tuition payments
13 post-petition. And he would testify that the expenses set
14 forth on Exhibit A are solely for new expenses going forward.

15 That would be Mr. Vesterman's testimony, Your Honor.
16 And at the time, I would move for Exhibit A to be admitted.

17 THE COURT: Okay. Exhibit A is admitted.
18 Let's have the witness step forward and be sworn.

19 (The witness was sworn by the courtroom deputy.)

20 THE COURT: All right. Would you state your
21 name for the record, sir.

22 THE WITNESS: William Vesterman.

23 THE COURT: Thank you. And you were in the
24 courtroom when counsel proffered your testimony?

25 THE WITNESS: Yes, ma'am.

1 THE COURT: Now that you've been sworn, would
2 you adopt that as your sworn testimony?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: All right. Does anyone wish to
5 cross?

6 MR. MARTIN: Your Honor, I think Mr. Liepins
7 can answer any questions that we have.

8 THE COURT: Okay. You may be seated then.
9 Thank you.

10 Any other evidence you wish to present, Mr. Liepins?

11 MR. LIEPINS: No other evidence at this time,
12 Your Honor.

13 THE COURT: All right. I'll hear any
14 arguments.

15 MR. LIEPINS: Your Honor, the debtor has filed
16 a motion to use the cash collateral. The cash collateral in
17 this case is fairly unique, since it is tuition payments that
18 parents will be giving in the future. To the extent those
19 are considered accounts receivable of the debtor, although
20 they haven't actually attended the school yet, that's really
21 what they are. The debtor is willing to provide Celtic with
22 a lien on the cash that it receives from tuition generated
23 post-petition. It believes that the debtor's income, based
24 upon the testimony, will remain current and actually increase
25 over the next few months. And that that will benefit Celtic

1 and provide them with adequate protection during this interim
2 period. We are asking the Court to allow the debtor to
3 continue its operations on an interim basis and use what may
4 be the cash collateral of Celtic to do that, Your Honor.

5 MR. MARTIN: Your Honor, I think the Bank is
6 fine with the interim. We just have a few questions. I
7 mean, it's our position that we have a lien on everything
8 that the debtor owns. And -- so I'm not sure how the debtor
9 is going to be able to grant replacement liens for adequate
10 protection.

11 THE COURT: By providing post-petition
12 services. You don't have liens on post-petition services.

13 MR. MARTIN: Well, I think we have a lien in
14 everything, in all of their income. And I think it was --

15 THE COURT: Since when and how? Have you read
16 552 of the Bankruptcy Code?

17 MR. MARTIN: I will review it.

18 THE COURT: Okay.

19 MR. MARTIN: So we had a question about
20 adequate protection. And then --

21 THE COURT: Okay. Here's my question to you.
22 How much is the -- so are you saying you're not consenting to
23 use of cash collateral today?

24 MR. MARTIN: We just have a question on what's
25 going --

1 THE COURT: That wasn't my question if you had
2 questions. My question is, are you consenting to the use of
3 cash collateral today?

4 MR. MARTIN: In the interim, yes.

5 THE COURT: Okay. On an interim basis.
6 THat's what I need to know.

7 So we can tee it up for final, okay. How much cash
8 dose the debtor have on hand currently, as of the petition
9 date, roughly? I just want some ball park numbers so we
10 understand the scope of the problem.

11 MR. LIEPINS: Somewhere around \$9,000 is what
12 I remember.

13 THE COURT: 9 thousand?

14 MR. LIEPINS: 9, because we filed right before
15 tuition payments were due.

16 THE COURT: Okay. That's fine, so 9,000 is
17 how much cash the debtor had?

18 MR. LIEPINS: Right.

19 THE COURT: Okay. So any other cash the
20 debtor would be using is from post-bankruptcy services
21 provided and earned through the tuition to be paid, right?

22 MR. LIEPINS: Correct, Your Honor.

23 THE COURT: All right. So -- and the Bank is
24 asserting liens on quote/unquote everything. I assume that
25 includes real estate; is that right?

1 MR. MARTIN: Yes, Your Honor.

2 THE COURT: Okay. Is the debtor's position
3 there's equity in the real estate, yes or no?

4 MR. LIEPINS: No.

5 THE COURT: No. There's no equity in the real
6 estate?

7 MR. LIEPINS: Correct, Your Honor.

8 THE COURT: Okay. So do you agree? Is that
9 the Bank's position?

10 MR. MARTIN: Yes, Your Honor. There's no
11 equity.

12 THE COURT: Okay. So there's nothing to
13 adequately protect there. Okay. So what other assets do you
14 have liens on that might be diminishing?

15 MR. LIEPINS: Theoretically my tables and
16 chairs, Your Honor.

17 THE COURT: Okay. But that's not cash
18 collateral. That's not cash.

19 MR. LIEPINS: Right.

20 THE COURT: Okay. All right. Just so we're
21 all clear, since it sounds like you all may or may not have a
22 potential dispute at the final hearing. I'd invite you to
23 look at Section 552 of the Bankruptcy Code, as well as the
24 law regarding that. I'd also invite you to look at the
25 difference between, quote/unquote, rents and services

1 rendered post-petition and earned post-petition and your
2 ability to have liens on any of that. And even outside of
3 bankruptcy, I'm not sure that there are liens on funds earned
4 by the debtor post -- for services, for future services. I'm
5 not sure, unless they are ARs, I suppose. But you all
6 have -- you're going to have to prove it up to me, is what
7 I'm telling you. And you telling me you have liens on,
8 quote/unquote, everything, and your documents, even if they
9 said, You have liens on, quote/unquote, everything, I'm not
10 sure is adequate. And there's a whole body of law in
11 bankruptcy about Section 552 and what it means.

12 So I'd invite you to take a look at that before you come
13 back. And you may have liens. I don't know. But it's not
14 going to be an automatic, Oh, yeah, you have liens, because I
15 don't understand the law to be that way. Okay?

16 MR. MARTIN: No, I agree, Your Honor. The
17 debtor was here a few years ago when the case was dismissed,
18 or that was the settlement agreement where he re-affirmed the
19 Bank's liens in, quote/unquote, everything. But I understand
20 it's not post-petition services. So we will take replacement
21 liens and --

22 THE COURT: Okay. They're granting you, as I
23 understand you as part of your agreement today for the use of
24 cash collateral on an interim basis. They're granting you
25 liens on the tuition that is due, that comes due and is

1 collected between now and the final hearing for the use of
2 the cash collateral to adequately protect you for the use of
3 the 9,000, roughly, in cash collateral the debtor is
4 currently holding. Okay?

5 When we get to the final hearing, if you all don't have
6 an agreement about how you're going to do this, you're going to
7 have to prove up what liens you have in the cash that is
8 entitled to adequate protection. And you're going to have to
9 prove up that they're somehow adequately protected. Right?

10 MR. MARTIN: Yes.

11 THE COURT: So if you all don't agree, we'll
12 have that hearing at final hearing. I just don't want -- I
13 don't want you all to show up at the final hearing and not be
14 prepared, or say, Oh well, you know, we get all of these
15 things because here we are in bankruptcy and the Rules are a
16 little bit different.

17 Meantime, I'm going to approve the use of cash
18 collateral, based on the agreements of the parties as
19 announced on the record today on an interim basis, as set
20 forth in Exhibit A and admit Exhibit A, as evidence of the
21 budget between the parties. You'll submit that order,
22 Mr. Liepins.

23 MR. LIEPINS: Yes, Your Honor.

24 THE COURT: We'll have a final hearing. Let's
25 do that, also, on the 26th of Jul at 9:30 a.m. Is that good

1 for everybody? Is that a good date?

2 MR. LIEPINS: That's fine. I'll circulate the
3 order to Mr. Martin.

4 THE COURT: All right. Anything further from
5 the parties?

6 MR. LIEPINS: Not today, Your Honor.

7 MR. MARTIN: No, Your Honor.

8 THE COURT: All right. Thank you. Parties
9 are excused and we're adjourned.

10 (End of Proceedings.)

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C E R T I F I C A T E

I, CINDY SUMNER, do hereby certify that the foregoing constitutes a full, true, and complete transcription of the proceedings as heretofore set forth in the above-captioned and numbered cause in typewriting before me.

/s/Cindy Sumner

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